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10/533,404	04/29/2005	Fiorentino De Simone	2507-1072	2208

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EXAMINER

BOECKMANN, JASON J

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/533,404

Applicant(s)

DE SIMONE, FIORENTINO

Examiner

Jason J. Boeckmann

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 11 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 18-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 18-28 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/11/2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings were received on 4/11/2006. These drawings are acceptable, however:

The drawings are objected to because in the new figure 11B, the rotating switch, indicated as reference number 11 in the specification and the applicant's remarks, has been incorrectly labeled with the number 13 in the figure. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 1 is objected to because of the following informalities: The phrase, "and the like," in line 6 of the claim is not consistent with common U.S. practice. Appropriate correction is required.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

In the previous office action, numerous specific examples of grammatical and idiomatic errors were noted for the applicant to correct. This list was by no means complete and was only intended as a guideline for the applicant to follow in order to correct the remainder of the errors and put the claims in proper English.

The claims are replete with errors too numerous to mention specifically. The following noted informalities are merely exemplary thereof.

Examiner suggests some corrections for the errors listed below. This list is not inclusive and is intended as a guideline for the applicant to follow.

- I. In claim 2, lines 4-5, "such reservoirs," could be changed to, "each reservoir."
- II. In claim 2, line 5, the word, "such," could be changed to "the predetermined amount of."

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- III. The wording in claim 18, lines 2-4 could be changed to, "in which each reservoir is provided with a respective pushbutton control which operates the means to deliver a predetermined amount of soap.
- IV. The wording in Claim 26, lines 7-9 could be changed to "taking the amount of soaped water to be recycled, from the outlet pipe and feeding it directly into a lower portion of the upper hopper."
- V. In claim 21, "the," should be entered after the word, "that," in line 2.
- VI. In claim 1, line 4, "for" could be changed to "from."

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 19, 21, 24-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In claim 2, it is unclear as to where the "predetermined amount of liquid soap," is delivered.

Regarding the applicant's arguments, It is clear that the soap is delivered from the reservoirs, but it is unclear as to where the soap is delivered to. Is the soap being delivered to the showerhead or is it being delivered to the mixing reservoir?

- Claim 19 is an omnibus type claim. In addition, it is unclear as to how the smelling essences or essential oils are sprinkled onto a person's body if they are mixed in with the soap foam being ejected from the showerhead.
- In claim 21, it is not clear where the suction orifice is located (line 5). Is the suction orifice in the venturi tube, the length of free duct or the cylindrical body of the rotating switch?
- In claim 22, it is unclear as to what axis is being referred to in line 4 of the claim. Also, it is unclear as to what is being spaced uniformly therefrom. Is it the axis of the rotating switch from the axes of the Venturi tube and the free duct, or is it the axis of the free duct from the axis of the Venturi tube?
- In claim 27 it is unclear as to what the "tapping orifice" in line 4 is referring to. Neither the specification nor the drawings refer to such limitation.
- In claim 27, line 3, it is not clear what the suitable knob is, and where it is located in the figures or described in the specification.
- In claim 26, line 11, it is unclear as to what the limitation "detergent product" is referring to. The specification does not appear to define the term.
- In claim 28, it is unclear as to which reservoir the applicant is referring to in line 5 of the claim. The device being claimed appears to have two reservoirs in the drawings and the specification does not disclose a device including only one reservoir. Therefore the last amendment to claim 28 is new matter and must be removed.

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Claim 18 recites the limitation "open air" in the last line. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "non-soaped water reservoir" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 22 recites the limitation "the axis" in line 4. There is insufficient antecedent basis for this limitation in the claim. Is it the axis of rotation of the rotating switch, and how is that axis defined?

Claim 25 recites the limitation "connecting pipe" in lines 2-3 and line 4. There is insufficient antecedent basis for this limitation in the claim. Also, it is unclear as to what the connecting pipe is in the drawings.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Conklin
(3,713,585)

Conklin shows a device for supplying soap foam to a showerhead including a means to mix (mixing chamber 13) water (entering through pipe 14) for the shower with air (already in the mixing chamber 13) and a predetermined amount of soap (delivered

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through pipe 19), in order to form and supply to the showerhead (28') a foam to be ejected from the showerhead.

In regards to applicant's remarks, air is inherently present in the mixing chamber 13 and in the soap reservoirs 16 and 17, unless a vacuum is present. Therefore air is mixed with the soap from the reservoirs and the water for the shower and delivered to the showerhead.

Claims 1 and 2, as well as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Welford (2891,913).

Welford shows a device for supplying soap foam to a showerhead including; one or more reservoirs (22), means to deliver a predetermined amount of soap (21) from such reservoir, means to intake air (24) together with water (14), and a means to mix (nozzle 16 and chamber 19) water (entering through pipe 14) for the shower with air (from intake 24) and a predetermined amount of soap (from tube 21), in order to form and supply to the showerhead (15) a foam to be ejected from the showerhead.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2, 18, 19 and 28 are rejected, as well as understood, under 35 U.S.C. 103(a) as being unpatentable over Conklin (3,713,585) in view of Karp (4,189,100).

Conklin shows all aspects of claim 1, including one or more reservoirs (16, 17), each with a respective pushbutton control (22'), to deliver the predetermined amount of soap from the reservoirs to the mixing reservoir (13) from which the mixing means intakes soap and air during operation. Conklin does not show a means to intake air into the mixing reservoir by a further pipe connected to an upper hopper. However, Karp shows a showerhead comprising an upper hopper (16) that is connected to a mixing chamber (10) by a pipe (12). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to add the upper hopper (16) and the connection pipe (12), of Karp's invention, to the showerhead apparatus of Conklin, having the upper hopper and connection pipe feed directly into the single mixing reservoir (13) of Conklin's showerhead. This would provide Conklin's showerhead apparatus with a quick fill option for adding small amounts of different types of soaps, oils and perfume to the foam mixture and allow for air to enter the mixing chamber.

Allowable Subject Matter

Claims 20-27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed on 4/16/2006 have been fully considered but they are not persuasive. Air is inherently included in the mixing means of Conklin because it is not being performed in a vacuum. See 102 rejections.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Boeckmann whose telephone number is (571) 272-2708. The examiner can normally be reached on 7:30 - 5:00 m-f, first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJB JSB 6/25/06



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